

AMENDED IN SENATE APRIL 17, 2007

**SENATE BILL**

**No. 1017**

---

**Introduced by Senator Perata**

February 23, 2007

---

An act to amend ~~Section 1756 of~~ *Section 331 of*, and to add *Section 378.5 to*, the Public Utilities Code, relating to ~~the Public Utilities Commission~~ *electricity*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1017, as amended, Perata. ~~Public Utilities Commission: judicial review.~~ *Municipal utility districts: electricity generation: self-service wheeling.*

*(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The Public Utilities Act imposes various duties and responsibilities on the commission with respect to the purchase of electricity and requires the commission to review and adopt a procurement plan and a renewable energy procurement plan for each electrical corporation pursuant to the California Renewables Portfolio Standard Program. The program requires that electrical corporations, among other entities, purchase a specified minimum percentage of electricity generated by eligible renewable energy resources, as defined, in any given year as a specified percentage of total kilowatthours sold to retail end-use customers each calendar year.*

*Existing law requires every electrical corporation to file with the commission a standard tariff for the renewable energy output produced at an electric generation facility, as defined, that, among other things, is an eligible renewable energy resource.*

*This bill would require an electrical corporation that owns or controls transmission or distribution facilities, upon request by a water district established in accordance with the Municipal Utility District Act, and, on or before January 1, 2007, capable of generating at least 25% of its annual electrical energy use, to provide self-service wheeling services, as defined, sufficient to enable the water district to wheel power generated by the water district over the transmission or distribution lines of the electrical corporation to serve off-site loads of the water district at facilities that are located within the service area of the electrical corporation. The bill would require the commission to require each electrical corporation to establish a standard self-service wheeling tariff.*

*(2) Existing law makes any public utility that violates the act, or that fails to comply with any part of any order, decision, rule, direction, demand, or requirement of the Public Utilities Commission guilty of a crime.*

*Because a violation of these provisions would be a crime under existing law, this bill would impose a state-mandated local program.*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~The California Constitution establishes the Public Utilities Commission, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities and to establish the manner and scope of review of commission action in a court or record. The Public Utilities Act sets forth the manner and scope of review of commission actions by petition in the court of appeal or the Supreme Court, but specifies different rules for review of actions in a proceeding concerning authority to complete the merger or acquisition of 2 telecommunications-related corporations, as described, filed on or before December 31, 1998.~~

~~This bill would repeal those different rules for review of actions in a proceeding concerning authority to complete the merger or acquisition of 2 telecommunications-related corporations filed on or before December 31, 1998.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 331 of the Public Utilities Code is  
2     amended to read:

3     331. The ~~following definitions set forth in this section shall~~  
4     govern the construction of this chapter.:

5     (a) “Aggregator” means any marketer, broker, public agency,  
6     city, county, or special district, that combines the loads of multiple  
7     end-use customers in facilitating the sale and purchase of electric  
8     energy, transmission, and other services on behalf of these  
9     customers.

10    (b) “Broker” means an entity that arranges the sale and purchase  
11    of electric energy, transmission, and other services between buyers  
12    and sellers, but does not take title to any of the power sold.

13    (c) “Direct transaction” means a contract between any one or  
14    more electric generators, marketers, or brokers of electric power  
15    and one or more retail customers providing for the purchase and  
16    sale of electric power or any ancillary services.

17    (d) ~~“Fire wall”~~ “Firewall” means the line of demarcation  
18    separating residential and small commercial customers from all  
19    other customers as described in subdivision (e) of Section 367.

20    (e) “Marketer” means any entity that buys electric energy,  
21    transmission, and other services from traditional utilities and other  
22    suppliers, and then resells those services at wholesale or to an  
23    end-use customer.

24    (f) “Microcogeneration facility” means a cogeneration facility  
25    of less than one megawatt.

26    (g) “Restructuring trusts” means the two tax-exempt public  
27    benefit trusts established by Decision 96-08-038 of the ~~Public~~  
28    ~~Utilities Commission~~ *commission* to provide for design and  
29    development of the hardware and software systems for the Power  
30    Exchange and the Independent System Operator, respectively, and  
31    that may undertake other activities, as needed, as ordered by the  
32    commission.

33    (h) “Self-service wheeling” means electric transmission and  
34    distribution services sufficient to enable an applicant to transport  
35    the applicant’s own generated electricity, over which the applicant

1 *exercises ownership, control, or leasehold interest, to delivery*  
2 *points that are physically separate and distinct from the applicant's*  
3 *electricity generation or production location.*

4 ~~(h)~~

5 (i) "Small commercial customer" means a customer that has a  
6 maximum peak demand of less than 20 kilowatts.

7 SEC. 2. Section 378.5 is added to the Public Utilities Code, to  
8 read:

9 378.5. (a) *The Legislature finds and declares that the pumping*  
10 *and transmission of water is a vital component of water service*  
11 *and a major share of California's energy usage, and therefore, it*  
12 *is the policy of the state to encourage and support the development*  
13 *of self-service wheeling of electricity as an efficient use of energy*  
14 *resources by California water districts.*

15 (b) *An electrical corporation that owns or controls transmission*  
16 *or distribution facilities, upon request by a water district*  
17 *established in accordance with Division 6 (commencing with*  
18 *Section 11501), and, on or before January 1, 2007, capable of*  
19 *generating at least 25 percent of its annual electrical energy use,*  
20 *shall provide self-service wheeling services sufficient to enable*  
21 *the water district to wheel power generated by the water district*  
22 *over the transmission or distribution lines of the electrical*  
23 *corporation to serve off-site loads of the water district at facilities*  
24 *that are located within the service area of the electrical*  
25 *corporation.*

26 (c) *The commission shall require each electrical corporation*  
27 *to establish a standard self-service wheeling tariff that sets forth*  
28 *fair and reasonable terms and conditions for self-service wheeling*  
29 *service, including charges reflecting capital, operation,*  
30 *maintenance, and replacement costs, if any, that are directly*  
31 *related to the electrical corporation's provision of self-service*  
32 *wheeling services. Self-service wheeling charges shall not exceed*  
33 *similar charges applicable to direct transactions, and shall not*  
34 *include electricity generation-related costs except as provided in*  
35 *subdivision (d).*

36 (d) *If an electrical corporation provides self-service wheeling*  
37 *services to a retail end-use customer load that previously*  
38 *purchased power from an electrical corporation on or after*  
39 *February 1, 2001, the electrical corporation may recover*  
40 *reasonable nonbypassable charges associated with that load, but*

1 *not to any additional load that may be added at the location in the*  
2 *future, if those nonbypassable charges are limited to net*  
3 *above-market procurement cost obligations incurred before the*  
4 *date of application for self-service wheeling for that load.*

5 *(e) Self-service wheeling customers are exempt from the*  
6 *requirements of Article 12 (commencing with Section 394).*

7 *SEC. 3. No reimbursement is required by this act pursuant to*  
8 *Section 6 of Article XIII B of the California Constitution because*  
9 *the only costs that may be incurred by a local agency or school*  
10 *district will be incurred because this act creates a new crime or*  
11 *infraction, eliminates a crime or infraction, or changes the penalty*  
12 *for a crime or infraction, within the meaning of Section 17556 of*  
13 *the Government Code, or changes the definition of a crime within*  
14 *the meaning of Section 6 of Article XIII B of the California*  
15 *Constitution.*

16 ~~SECTION 1. Section 1756 of the Public Utilities Code is~~  
17 ~~amended to read:~~

18 ~~1756. (a) Within 30 days after the commission issues its~~  
19 ~~decision denying the application for a rehearing, or, if the~~  
20 ~~application was granted, then within 30 days after the commission~~  
21 ~~issues its decision on rehearing, or at least 120 days after the~~  
22 ~~application is granted if no decision on rehearing has been issued,~~  
23 ~~any aggrieved party may petition for a writ of review in the court~~  
24 ~~of appeal or the Supreme Court for the purpose of having the~~  
25 ~~lawfulness of the original order or decision or of the order or~~  
26 ~~decision on rehearing inquired into and determined. If the writ~~  
27 ~~issues, it shall be made returnable at a time and place specified by~~  
28 ~~court order and shall direct the commission to certify its record in~~  
29 ~~the case to the court within the time specified.~~

30 ~~(b) The petition for review shall be served upon the executive~~  
31 ~~director of the commission either personally or by service at the~~  
32 ~~office of the commission.~~

33 ~~(c) For purposes of this section, the issuance of a decision or~~  
34 ~~the granting of an application shall be construed to have occurred~~  
35 ~~on the date when the commission mails the decision or grant to~~  
36 ~~the parties to the action or proceeding.~~

37 ~~(d) The venue of a petition filed in the court of appeal pursuant~~  
38 ~~to this section shall be in the judicial district in which the petitioner~~  
39 ~~resides. If the petitioner is a business, venue shall be in the judicial~~

1 ~~district in which the petitioner has its principal place of business~~  
2 ~~in California.~~  
3 ~~(e) Any party may seek from the Supreme Court, pursuant to~~  
4 ~~California Rules of Court, an order transferring related actions to~~  
5 ~~a single appellate district.~~  
6 ~~(f) For purposes of this section, review of decisions pertaining~~  
7 ~~solely to water corporations shall only be by petition for writ of~~  
8 ~~review in the Supreme Court, except that review of complaint or~~  
9 ~~enforcement proceedings may be in the court of appeal or the~~  
10 ~~Supreme Court.~~